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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

Case No.: 2:23-cv-03614-FWS-MRW

Date: February 26, 2024

Title: United States of America v. One Gray 2019 BMW 330i

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Present: **HONORABLE FRED W. SLAUGHTER, UNITED STATES DISTRICT JUDGE**

Melissa H. Kunig  
Deputy Clerk

N/A  
Court Reporter

Attorneys Present for Plaintiff:

Attorneys Present for Defendants:

Not Present

Not Present

**PROCEEDINGS: ORDER TO SHOW CAUSE WHY ACTION SHOULD NOT BE  
DISMISSED FOR LACK OF PROSECUTION**

On May 11, 2023, Plaintiff United States of America (“Plaintiff”) filed a Verified Complaint for Forfeiture for One 2019 Gray BMW 330i (“Defendant”). (Dkt. 1.) On May 12, 2023, the case was assigned to District Judge Percy Anderson and Magistrate Judge Michael R. Wilner. (Dkt. 3.) On May 15, 2023, the court issued an order appointing the Drug Enforcement Administration as substitute custodian of Defendant. (Dkt. 8.) On May 15, 2023, a Notice of Civil Forfeiture was posted on an official government internet site, alerting anyone asserting a legal interest in the Defendant Property that they had 60 days from publication of the Notice to submit a Verified Claim for the property with the court. (Dkt. 21.) On May 18, 2023, the court issued a warrant for seizure of One Gray 2019 BMW 330i. (Dkt. 10.)

On May 19, 2023, the case was reassigned to the District Judge Fred Slaughter. (Dkt. 11.) On August 8, 2023, the court issued an order appointing the United States Marshal Service as custodian of the defendant in place of the Drug Enforcement Administration. (Dkt. 16.) On September 19, 2023, Plaintiff filed an Application for the Clerk of the Court to enter Default against Fidel Castro Aguirre, Anthony Aguirre, Financial Services Vehicle Trust, and all other potential claimants with respect to Defendant (“Potential Claimants”). (Dkt. 22.) Default was subsequently entered, Dkt. 23, and the court ordered Plaintiff to file a Motion for Default Judgment by October 19, 2023. (Dkt. 24.) On October 5, 2023, Plaintiff filed a Motion for Default Judgment against potential claimants. (Dkt. 25.) On November 11, 2023, Plaintiff

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subsequently filed a request to withdraw the Motion and vacate the scheduled hearing date, on the grounds that a potential claimant may not have received adequate notice of the action. (*See generally* Dkt. 27.) The court granted Plaintiff's Request to Withdraw and vacated the hearing on the motion. (Dkt. 28). There have been no actions taken by either party since the court granted Plaintiff's Request to Withdraw.

Given the inaction in this case demonstrated by the record, the court **ORDERS** Plaintiff to show cause in writing no later than **March 6, 2024**, why this action should not be dismissed for lack of prosecution. *See* Fed. R. Civ. P. 41(b); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629 (1962) ("The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted."); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005) ("[C]ourts may dismiss under Rule 41(b) sua sponte, at least under certain circumstances."); *Ash v. Cvetkov*, 739 F.2d 493, 496 (9th Cir. 1984) ("It is within the inherent power of the court to sua sponte dismiss a case for lack of prosecution.").

**IT IS SO ORDERED.**

Initials of Deputy Clerk: mku